DATE: 6-6-03	APPL, S.N.: <u>071</u> 676, 707
TO EXAMINER: Snedden	ART UNIT: <u>/653</u>
MOSE MONTGOMERY ROOM ILE	MAILROOM DATE _5-29-03
AFTER FINAL YES NONUMBER OF T.D(S). FILED	
The T.D. Is PROPER and has been recorded. (See 14.23).	
[] The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).	
[] The recording fee of \$ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)	
[] Application Examiner has not processed T.D. fee. (See fe	
[] The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).	
[] The T.D. tacks the enforceable only during the common of Rule 321(c). (See 14.27, 14.27.01).	wership clause needed to overcome a double patenting rejection,
[] It is directed to a particular claims(s), which is not accepta term of the entire patent to be granted. MPEP 1490. (See 14.	ble since "the disclaimer must be of a terminal portion of the 26, 14.26.02).
[] The person who signed the terminal disclaimer: [] has failed to state his/her capacity to sign for the [] is not recognized as an officer of the assignee, (business entity, (See 14.28). See 14.29 and possibly 14.29.01).
[] No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). <u>NOTE</u> : This documentary evidence or the specifying of the reel and frame may be found in the T.D. <u>or</u> in a seperate paper <u>submitted by applicant</u> . (See 14.30).	
[] No "statement" specifying that the evidentiary documents is knowledge and belief the title is in the assignee seeking to take	nave been reviewed and that, to the best of the assignee's action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).
[] The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03	if TD is not signed by all the owners.
[] Attorney not of record in oath/decl. or a seperate paper filed	d appointing a new or associate attorney. (See 14.29.01).
[] The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).	
[] The serial number of this application (or the number of the or incorrect. (See 14.26, 14.26.04 or 14.26.05).	patent in reexam or reissue case(s) being disclaimed is missing
[] The period disclaimed is incorrect or not specified. (See 14	1.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)
[] Other:	
[] Suggestion to request refund of \$ (See 14.3)	5, 14.36).
[] EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALTIES MAY BE FAXED IN TO THE GROUP.	
FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:	
 Sample of a TD over a pending application and assignee Certificate (See 14.37). Sample of a TD over a prior patent and assignee Certificate (See 14.38). Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39) 	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

Lewis H. Lambert

Serial No.:

09/696,709

Filed:

October 24, 2000

For:

IMPROVED THERAPEUTIC COMPOSITIONS COMPRISING BACTERICIDAL/PERMEABILITY-INCREASING (BPI) PROTEIN

PRODUCTS

Examiner: Sheridan K. Snedden

Group Art Unit: 1653

Conf. No.: 3310

Express Mail No. EV 327683289 US

Date of Mailing: May 29, 2003

TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(c)

Commissioner for Patents Washington, D.C. 20231

Dear Sir:

XOMA Technology Ltd. is the owner of the entire right, title and interest in the above-identified patent application as shown by the assignment recorded on February 23, 1996 at Reel 7835, Frame 0703 in application U.S. Serial No. 08/586,133 and is the assignee of United States Patent No. 5,912,228 by virtue of an assignment recorded on February 23, 1996 at Reel 7835, Frame 0703. XOMA Technology Ltd. is a wholly-owned subsidiary of XOMA Ltd., c/o XOMA (US) LLC, 2910 Seventh Street, Berkeley, California 94710, both of which are limited liability companies of Bermuda (a dependent territory of the United Kingdom) and wherein XOMA Ltd. has resulted from merger and change of domicile of XOMA Corporation.

Owner hereby disclaims the terminal portion of the term of any patent granted on the above-identified application extending beyond the expiration date of the United States Patent No. 5,912,228, and hereby agrees that any patent so granted 용

on the above-identified application shall be enforceable on for and during such period that the legal title to said patent and the legal title to United States Patent No. 5,912,228 is commonly owned, this agreement to run with any patent granted on the above-entitled application and to be binding upon owner and its successors or assigns.

Owner does not disclaim any terminal portion of the term of any patent granted on the above-identified application prior to the expiration date of the full statutory term of United States Patent No. 5,912,228, in the event that said United States Patent No. 5,912,228 later expires for failure to pay a maintenance fee, are held unenforceable, are found invalid, are statutorily disclaimed in whole or in part or are terminally disclaimed under 37 CFR 1.321(a), have all claims canceled by a reexamination certificate, or are otherwise terminated prior to expiration of its statutory term, except for the separation of legal title stated above.

The documents establishing the owner's chain of title have been reviewed by the undersigned and the undersigned certifies that to the best of his/her knowledge and belief, title is in the owner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

DATED: May 29, 2003

Janet M. McNicholas, Ph.D.

Reg. No. 32,918

Attorney for XOMA Technology, Ltd.

Vanet M. Manicholas

McAndrews, Held & Malloy, Ltd. 500 West Madison Street **Suite 3400** Chicago, Illinois 60661

Telephone: (312) 775-8000 Facsimile: (312) 775-8100